SENATE DOCKET, NO. 1251 FILED ON: 1/20/2011

# SENATE . . . . . No. 277

The Commonwealth of Massachusetts

PRESENTED BY:

***Mark C. Montigny***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act restoring the Medicare Part D safety net prescription drug coverage for seniors and the disabled..

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Mark C. Montigny* | |
| | ☐ *[District]* |
| | ☐ |

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# SENATE . . . . . No. 277

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 277) of Mark C. Montigny for legislation restoring the Medicare Part D safety net prescription drug coverage for seniors and the disabled. Elder Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *315* OF 2009-2010.]

## The Commonwealth of Massachusetts

An Act restoring the Medicare Part D safety net prescription drug coverage for seniors and the disabled..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by striking out sections 7A and 7B and inserting in place thereof the following sections:-

Section 7A. Notwithstanding any general or special law to the contrary, the subsidized catastrophic prescription drug insurance program established in section 39 of chapter 19A of the General Laws shall provide coverage each calendar year for a 1-time supply of prescribed medications in the amount prescribed, up to a 30-day supply, to enrollees who are also eligible for Medicare prescription drug coverage and who have not already received during the current calendar year a 1-time supply under this section. After an enrollee exhausts the availability of the annual 1-time 30-day supply of a medication under this section, the program shall provide coverage, free of charge, for a 1-time, 72-hour supply of the medication each calendar year. Both the 30-day supply and the 72-hour supply shall be available in all instances in which the pharmacist cannot bill a Medicare prescription drug plan at the time the prescription is presented. Any co-pay or deductible that would have been charged to the enrollee under section 39 of chapter 19A shall not apply to the annual 1-time 30 day supply.

Section 7B. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the director of Medicaid, shall

18 authorize MassHealth payment each calendar year for a 1-time supply of prescribed medications
19 in the amount prescribed, up to a 30-day supply, to beneficiaries under chapter 118E of the
20 General Laws who are also eligible for Medicare prescription drug coverage and who have not
21 already received during the current calendar year a 1-time supply under this section. After a
22 beneficiary exhausts the availability of the annual 1-time, 30-day supply of a medication under
23 this section, MassHealth shall provide coverage, free of charge, for a 1-time, 72-hour supply of
24 the medication each calendar year. Both the 30-day supply and the 72-hour supply shall be
25 available in all instances in which the pharmacist cannot bill a Medicare prescription drug plan at
26 the time the prescription is presented. Any co-pay or deductible that would have been charged to
27 the beneficiary under MassHealth shall apply to the annual 1-time, 30-day supply.

28 SECTION 2. Said chapter 175 of the acts of 2005, as so amended, is hereby
29 amended by inserting after section 7B the following 2 sections:-

30 Section 7C. Notwithstanding section 7D or any general or special law to the
31 contrary, between January 1, 2007 and December 31, 2007, in the event that the Medicare
32 prescription drug plan covers the prescribed medication at the time the prescription is presented,
33 but charges a co-pay or deductible to a MassHealth member that exceeds the amount federal
34 Medicare law permits the plan to charge a non-institutionalized full benefit dual eligible member
35 with income less than or equal to 100% of the federal poverty line, MassHealth shall pay the
36 amount of such excess and the beneficiary shall pay the balance.

37 Section 7D. Notwithstanding any general or special law to the contrary, in the
38 event that the Medicare prescription drug plan covers the prescribed medication at the time the
39 prescription is presented, but charges a co- pay or deductible to a MassHealth member whose
40 MassHealth co-pay would be zero, MassHealth shall pay the entire amount of that co-pay or
41 deductible. In the event that the Medicare prescription drug plan covers the prescribed
42 medication at the time the prescription is presented, but charges a co-pay or deductible to a
43 MassHealth member in excess of what would have been charged to the beneficiary under
44 MassHealth, MassHealth shall pay the excess amount and the beneficiary shall pay what would
45 be payable under MassHealth.

46 SECTION 3. Said chapter 175 of the acts of 2005, as so amended, is hereby
47 amended by inserting after section 8 the following 2 sections:-

48 Section 9. Notwithstanding any general or special law to the contrary, the
49 secretary of health and human services, in consultation with the director of Medicaid, shall
50 authorize MassHealth coverage for beneficiaries under chapter 118E of the General Laws who
51 are also eligible for Medicare prescription drug coverage for all medications which are excluded
52 from coverage under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that
53 beneficiary under MassHealth, or appropriate regulations, were he not eligible for Medicare

54 prescription drug coverage. Any co-pay or deductible that would have been charged to the
55 beneficiary under MassHealth shall apply thereto.

56 Section 10. Notwithstanding any general or special law to the contrary, the
57 subsidized catastrophic prescription drug insurance program established in section 39 of chapter
58 19A of the General Laws shall provide coverage for all medications which are excluded from
59 coverage under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that
60 beneficiary under said section 39, or appropriate regulations, were he not eligible for Medicare
61 prescription drug coverage. Any co-pay or deductible that would have been charged to the
62 enrollee under said section 39 shall apply thereto.